

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN

In re

CITY OF DETROIT, MICHIGAN,

Debtor.

Chapter 9

Case No. 13-53846

Hon. Steven W. Rhodes

Johnathan Brown, on behalf of himself and  
a class of others similarly situated,

Appellant.

v.

City of Detroit,

Appellee.

**APPELLANT JOHNATHAN BROWN DESIGNATION OF THE CONTENTS OF THE RECORD  
AND STATEMENT OF ISSUES ON APPEAL**

Appellant Johnathan Brown, on behalf of himself and a class of others similarly situated, respectfully submits the following Designation of Contents and Statement of Issues pursuant to Fed. R. Bnkr. P. 8009(a)(1). This Designation and Statement relates to the Appeal filed on November 26, 2014. (See Notice of Appeal, Dckt. 8469).

**I. DESIGNATION OF RECORD ON APPEAL**

Item #	Date Filed	Court Docket #	Document Name
1	7/18/2013	0001	Voluntary Petition for City of Detroit, Michigan
2	12/5/2013	1945	Opinion Regarding Eligibility
3	2/21/2014	2708	Plan for the Adjustment of Debts of the City of Detroit
4	2/21/2014	2709	Disclosure Statement with Respect to Plan for the Adjustment of Debts of the City of Detroit

<b>Item #</b>	<b>Date Filed</b>	<b>Court Docket #</b>	<b>Document Name</b>
5	3/31/2014	3380	Amended Plan for the Adjustment of Debts of the City of Detroit (March 31, 2014)
6	3/31/2014	3382	Amended Disclosure Statement With Respect to Amended Plan for the Adjustment of Debts of the City of Detroit
7	4/15/2014	4099	Objections of Creditors Deborah Ryan, Walter Swift, Cristobal Mendoza and Annica Cuppetelli, Interested Parties, to Amended Plan for the Adjustment of Debts of the City of Detroit
8	4/16/2014	4140	Second Amended 9 Plan for the Adjustment of Debts of the City of Detroit (April 16, 2014)
9	4/22/2014	4224	Objections of Creditors Dwayne Provience, Richard Mack, and Gerald and Alecia Wilcox, Interested Parties, to Amended Plan for the Adjustment of Debts of the City of Detroit
10	4/22/2014	4226	Amended Objections of Creditors Deborah Ryan, Walter Swift, Cristobal Mendoza and Annica Cuppetelli, Interested Parties, to Amended Plan for the Adjustment of Debts of the City of Detroit and Certificate of Service
11	4/23/2014	4228	Amended "Corrected" Objections of Creditors Deborah Ryan, Walter Swift, Cristobal Mendoza and Annica Cuppetelli, Interested Parties, to Amended Plan for the Adjustment of Debts of the City of Detroit and Certificate of Service
12	4/25/2014	4271	Third Amended Chapter 9 Plan for the Adjustment of Debts of the City of Detroit (April 25, 2014)
13	4/25/2014	4272	Third Amended Disclosure Statement with Respect to Third Amended Plan for the Adjustment of Debts of the City of Detroit
14	5/5/2014	4391	Fourth Amended Disclosure Statement With Respect to Fourth Amended Plan for the Adjustment of Debts of the City of Detroit
15	5/5/2014	4392	Fourth Amended Plan for the Adjustment of Debts of the City of Detroit (May 5, 2014)

Item #	Date Filed	Court Docket #	Document Name
16	5/12/2014	4608	Second Amended Objections of Creditors Deborah Ryan, Walter Swift, Cristobal Mendoza and Annica Cuppetelli, Interested Parties, to the Fourth Amended Plan for the Adjustment of Debts of the City of Detroit and Certificate of Service
17	6/30/2014	5690	Supplemental Brief of Ryan, Swift, Mendoza and Cuppetelli, Interested Parties, in Support of their Objections Previously Filed [Dkts. #4099, #4228, #4608] Insofar as §II.B.3.U.I. of the Proposed Plan Violates The Fourteenth Amendment, Impairing the Relief Available to them as Victims of Constitutional Violations Under 42 U.S.C. §1983
18	6/30/2014	5693	Brief in Concurrence of Creditors Dwayne Provience, Richard Mack, and Gerald and Alecia Wilcox, Interested Parties, to Deborah Ryan, Walter Swift, Cristobal Mendoza and Annica Cuppetelli, Interested Parties, Supplemental Brief [Dkt. #5690] in Support of the Instant Creditors' Previously-Filed Objections [Dkts. #4224 and #4618] to Debtor, City of Detroit's, Plan for the Adjustment of Debts of the City of Detroit, and Certificate of Service
19	7/11/2014	5925	Order of Certification Pursuant to 28 U.S.C. § 2403(a)
20	7/25/2014	6257	Fifth Amended Chapter 9 Plan for the Adjustment of Debts of the City of Detroit
21	7/29/2014	6379	Corrected Fifth Amended Plan for the Adjustment of Debts of the City of Detroit (July 29, 2014)
22	8/12/2014	6664	United States of America's Brief in Response to Order of Certification Pursuant to 28 U.S.C. § 2403(a)
23	8/15/2014	6758	Ex Parte Motion, for Leave to File a Second Supplemental Brief of Ryan, Swift, Mendoza and Cuppetelli, Interested Parties/§1983 Plaintiffs, in Support of their Objections Previously Filed [Dkts. #4099, #4228, #4608, #5690] on the Constitutionality of Allowing the Diminishment of the Fundamental Right to a Damages Remedy for the Violation of Constitutional Rights

Item #	Date Filed	Court Docket #	Document Name
24	8/15/2014	6763	Order Granting Ex Parte Motion of Ryan, Swift, Mendoza and Cuppetelli, Interested Parties/§1983 Plaintiffs, in Support of their Objections Previously Filed [Dkts. #4099, #4228, #4608, #5690] for Leave to File a Second Supplemental Brief Regarding the Issues Raised at the July 16, 2014 Hearing and Subsequently Addressed by the U.S. Attorney General's Office [Docket No. 6664] on the Constitutionality of Allowing the Diminishment of the Fundamental Right to a Remedy for the Violation of Constitutional Rights
25	8/15/2014	6764	Second Supplemental Brief of Ryan, Swift, Mendoza and Cuppetelli, Interested Parties/§1983 Plaintiffs, in Support of their Objections Previously Filed [Dkts. #4099, #4228, #4608, #5690] on the Constitutionality of Allowing the Diminishment of the Fundamental Right to a Damages Remedy for the Violation of Constitutional Rights
26	8/20/2014	6900	Brief in Concurrence of Creditors Dwayne Provience, Richard Mack, and Gerald and Alecia Wilcox, Interested Parties, to Deborah Ryan, Walter Swift, Cristobal Mendoza and Annica Cuppetelli, Interested Parties, Second Supplemental Brief [Dkt. #6764] in Support of the Instant Creditors' Previously-Filed Objections [Dkts. #4224 and #4618] to Debtor, City of Detroit's, Plan for the Adjustment of Debts of the City of Detroit, and Certificate of Service
27	8/20/2014	6908	Sixth Amended Plan for the Adjustment of Debts of the City of Detroit (August 20, 2014)
28	8/21/2014	6911	§ 1983 Plaintiff's Concurrence of Interested Parties Ryan, Swift, Mendoza, and Cuppetelli, Second Supplemental Brief in Support of their Objections Previously Filed [Dkts. #4099, #4228, #4608, #5690] on the Constitutionality of Allowing the Diminishment of the Fundamental Right to a Damages Remedy for the Violation of Constitutional Rights

Item #	Date Filed	Court Docket #	Document Name
29	8/22/2014	6955	§ 1983 Plaintiff's Concurrence of Interested Parties Ryan, Swift, Mendoza, and Cuppetelli, Second Supplemental Brief in Support of their Objections Previously Filed [Dkts. #4099, #4228, #4608, #5690] on the Constitutionality of Allowing the Diminishment of the Fundamental Right to a Damages Remedy for the Violation of Constitutional Rights
30	9/4/2014	7264	Third Order Overruling Objections to the City's Plan
31	9/16/2014	7502	Seventh Amended Chapter 9 Plan for the Adjustment of Debts of the City of Detroit (September 16, 2014)
32	10/22/2014	8045	Eighth Amended Plan for the Adjustment of Debts of the City of Detroit (October 22, 2014)
33	11/3/2014	8162	Ex Parte Motion for Leave to File Supplemental Brief in Support of Interested Parties/§1983 Plaintiffs' Previously Filed Objections (Dckts. #4099, #4224) on the Constitutionality of Allowing the Diminishment of the Fundamental Right to a Damages Remedy for the Violation of Constitutional Rights
34	11/4/2014	8167	Order Granting Ex Parte Motion for Leave to File a Supplemental Brief in Support of Interested Parties/§1983 Plaintiffs' Previously Filed Objections (Dckts. #4099, #4224) on the Constitutionality of Allowing the Diminishment of the Fundamental Right to a Damages Remedy for the Violation of Constitutional Rights
35	11/4/2014	8170	Supplemental Authority in Support of Interested Parties/§1983 Plaintiffs' Previously Filed Objections (Dckts. #4099, #4224) on the Constitutionality of Allowing the Diminishment of the Fundamental Right to a Damages Remedy for the Violation of Constitutional Rights
36	11/6/2014	8190	Submission of the City of Detroit in Response to Court Inquiries at Closing Argument Regarding the Treatment of Indirect Employee Indemnity Claims

Item #	Date Filed	Court Docket #	Document Name
37	11/6/2014	8191	Supplemental Statement of the Detroit Police Officers Association Including Collective Bargaining Agreement Language in Support of Discharge of Indirect Employee Indemnification Claims
38	11/12/2014	8256	Order Confirming that the Automatic Stay Does Not Apply to Disciplinary Proceedings Initiated by the City Against City Officers and Employees
39	11/12/2014	8257	Transcript Regarding Hearing Held on November 7, 2014
40	11/12/2014	8272	Order Confirming Eighth Amended Plan for the Adjustment of Debts of the City of Detroit
41	11/26/2014	8489	State of Michigan's Consolidated Response in Opposition to Motions to Stay Confirmation Order Pending Appeal
42	11/26/2014	8496	City of Detroit's Consolidated Objection to Appellants' Motions for Stay Pending Appeal
43	12/1/2014	8533	Order Denying Motions for Stay Pending Appeal
44	Not Yet Entered	Not Yet Docketed	Opinion on Confirmation of Eighth amended Plan for the Adjustment of Debts of the City of Detroit

Appellant reserves the right to supplement or amend this Designation of Record on Appeal.

## II. STATEMENT OF ISSUES

Appellant intends on raising the following issues on appeal:

1. Did the Bankruptcy Court err as matter of law by confirming the Eight Amended Plan for the Adjustment of Debts of the City of Detroit ("Plan") even though the Plan categorizes 42 U.S.C § 1983 claims as part of the class of other unsecured claims (Class 14)?
2. Does the Plan violate the United States Constitution when it diminishes and depletes the fundamental right to a remedy for the violation of Constitutional rights, pursuant to 42 U.S.C. §1983?
3. Is the right to remedies for violations of constitutional rights found inherently in the United States Constitution?
4. Is the diminishment or depletion to the right of action for damages resulting from constitutional violations unconstitutional?

5. Does the Bankruptcy Court's err in confirming the Plan that diminishes and depletes individuals' right of action for damages arising out of constitutional violations constitute reversible error?

In the course of discussing these issues, Appellant may address related issues and reserve the right to raise additional issues and to supplement or amend this Statement.

Respectfully submitted,

/s/ Cindy Tsai  
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**PROOF OF SERVICE**

I hereby certify that the foregoing Appellant Johnathan Brown Designation Of The Contents Of The Record And Statement Of Issues On Appeal was filed and served via the Court's electronic case filing and noticing system to all parties registered to receive electronic notices in this matter this 11<sup>th</sup> day of December, 2014.

/s/ Peggy J. Myers